



November 27, 2001

Mr. David Zimmerman
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2001-5469

Dear Mr. Zimmerman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 155273.

The Office of the Governor received a request for information relating to the handling and archival placement of former Governor George Bush's papers. You claim that the requested information is excepted from disclosure under sections 552.107 and 552.111 of the Government Code. We have considered the exceptions you raise and have reviewed the representative sample information you submitted.¹

Section 552.107(1) of the Government Code excepts from disclosure "information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct[.]" This exception protects information that an attorney cannot disclose because of a duty to the client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107(1) excepts from disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. See ORD 574 at 5. Section 552.107(1) does not protect purely factual information and thus does not except from disclosure factual recounting of events or documentation of calls made, meetings attended, and memos sent. *Id.*

¹This letter ruling assumes that the submitted samples of information are truly representative of the responsive information as a whole. This ruling neither reaches nor authorizes you to withhold any responsive information that is substantially different from the submitted information. See Gov't Code § 552.301(e)(1)(D): Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

You represent to this office that the submitted documents contain confidential internal communications and legal advice and opinion that occurred in furtherance of the rendition of professional legal services. You state that these documents were never intended for individuals outside the Office of the Governor, nor were they distributed to anyone other than the recipients indicated in the documents. Based on your representations and our review of the requested information, we conclude that this information is excepted from disclosure in its entirety under section 552.107(1). As we are able to make this determination, we need not address your arguments under section 552.111.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

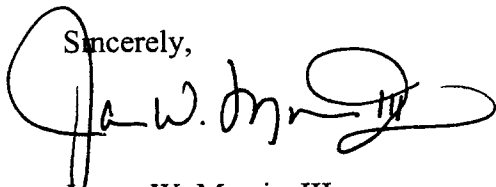
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'J.W. Morris, III', with a large, stylized flourish at the end.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 155273

Enc: Submitted documents

c: Mr. Lucius Lomax
P.O. Box 547
Austin, Texas 78767
(w/o enclosures)